

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

**In the Matter of**

Radio Station KDAP Douglas, AZ	)	
KASA Radio Hogar, Inc.	)	NAL/Acct No. 200132940002
1445 West Baseline Rd.	)	Case No. EB-00-SD-295
Phoenix, AZ 85041	)	

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

**Adopted: February 15, 2001**

**Released: February 15, 2001**

By the Enforcement Bureau: San Diego Office

**I. INTRODUCTION**

1. In this Notice of Apparent Liability for Forfeiture ("NAL"), we find KASA Radio Hogar, Inc. (Hogar) has apparently violated Sections 73.54(d), 73.1350(c)(1), 73.1590(a)(6) and 73.3526(a)(2) of the Commission's Rules and Regulations (Rules), by failure to provide a copy of the station's antenna resistance and reactance measurements during an inspection, failure to have the proper monitoring equipment installed at the duty operator position, failure to conduct annual equipment performance measurements and failure to maintain a Public Inspection File<sup>1</sup>. We conclude that Hogar is apparently liable for forfeiture in the amount of fifteen thousand dollars (\$15,000).

**II. BACKGROUND**

2. On November 6, 2000, the FCC's San Diego office received information from FCC's Columbia Operations Center in Laurel, MD that the carrier frequency measurement of the AM Broadcast radio station KDAP Douglas, AZ exceeded the frequency tolerance in violation of Section 73.44(b) of the Rules. The measurement was made using the remote monitoring equipment located at the FCC's Douglas, AZ Monitoring Facility.

3. On November 17, 2000 an agent from the FCC's San Diego office investigated the alleged violation by conducting an inspection of KDAP's studio and transmitter located at 2031 N. Sulphur Springs St., Douglas, AZ. During the inspection of KDAP several violations of Rules were discovered. Most were minor and technical in nature. However, the four listed above were the most serious.

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<sup>1</sup> 47 C.F.R. §§ 73.54(d), 73.1350(c)(1), 73.1590(a)(6) and 73.3526(a)(2)

4. On December 19, 2000 a violation notice was issued to Hogar listing ten violations found during the inspection of KDAP. On January 26, 2001 a fax from the Hogar's Washington D.C. law firm was received by this office in reply to the violation notice.

### III. DISCUSSION

5. The reply states that Hogar has either corrected or is working to correct these violations. However, there was no adequate explanation why the four violations cited may have occurred. These are serious infractions that merit more than a simple citation letter and a reply that all has been corrected.

6. A licensee of an AM Broadcast station must keep on file at the station location the data gathered from the measurements of the station's antenna system as required by Section 73.54(d) of the Rules. This information is essential in determining the station's transmitter output power. The reply to our violation notice from Hogar does not indicate where such measurements are maintained or if such measurements were ever conducted. A monetary forfeiture of one thousand dollars (\$1000) is proposed for this violation.

7. Licensees of all broadcast stations are responsible for maintaining and controlling their station's operating parameters such as output power and the level of modulation as required by Section 73.1350(c)(1) of the Rules. The FCC allows licensees great flexibility in designing and constructing necessary equipment and circuitry to control their station's operating parameters. In this case, Hogar did not provide any means for the station's duty operator to monitor or control these two basic operating parameters from the main duty position. The reply from Hogar again does not address the reasons why such a violation occurred, only that the violation will be corrected. A monetary forfeiture of three thousand dollars (\$3000) is proposed for this violation.

8. An AM Broadcast licensee must conduct equipment performance measurements annually to determine if their station is generating spurious signals beyond what is permitted under Section 73.44 of the Rules<sup>2</sup>, as required by Section 73.1590(a)(6) of the Rules. During the inspection no copies of previous equipment performance measurements were available or any evidence that any had been performed. Further, the reply from Hogar does not explain why such measurements were not available. A monetary forfeiture of one thousand dollars (\$1000) is proposed for this violation.

9. The inspection of KDAP revealed no public inspection file at the main studio location. Hogar was in violation of Section 73.3526(a)(2) of the Rules which in part states that "Every permittee or licensee of an AM, FM, or TV station in the commercial broadcast services shall maintain a public inspection file containing the material, relating to that station, described in... this section. .... A separate file shall be maintained for each station for which an authorization is outstanding, and the file shall be maintained so long as an authorization to operate the station is outstanding." Based on the evidence before us, we find that Hogar has willfully<sup>3</sup> violated Section 73.3526(a)(2) of the Rules by not maintaining a public inspection file. A monetary forfeiture of ten thousand dollars (\$10,000) is proposed for this violation.

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<sup>2</sup> 47 C.F.R. § 73.44.

<sup>3</sup> Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the

**IV. ORDERING CLAUSES**

10. Accordingly, **IT IS ORDERED THAT**, pursuant to Section 503(b) of the Act,<sup>4</sup> and Sections 0.111, 0.311 and 1.80 of the Commission's Rules,<sup>5</sup> KASA Radio Hogar, Inc. is hereby **NOTIFIED** of their **APPARENT LIABILITY FOR A FORFEITURE** in the amount of fifteen thousand dollars (\$15,000) for violating Sections 73.54(d), 73.1350(c)(1), 73.1590(a)(6) and 73.3526(a)(2) of the Commission's Rules and Regulations.

11. **IT IS FURTHER ORDERED THAT**, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this **NOTICE OF APPARENT LIABILITY**, KASA Radio Hogar, Inc. **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture. The response, if any, must be mailed to Federal Communications Commission, Enforcement Bureau, Technical and Public Safety Division, 445 12<sup>th</sup> Street, S.W., Washington, DC 20554, Ref: EB-00-SD-295, NAL/Acct. No. 200132940002.

12. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices; or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

13. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Chief, Credit and Debt Management Center, 445 12<sup>th</sup> Street, S.W., Washington, D.C. 20554.<sup>6</sup>

14. **IT IS FURTHER ORDERED THAT** this Notice shall be sent, by certified mail, return receipt requested, to KASA Radio Hogar, Inc., 1445 West Baseline Rd., Phoenix, AZ 85041.

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William R. Zears Jr.  
District Director - San Diego Office

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conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act....” See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

<sup>4</sup> 47 U.S.C. § 503(b).

<sup>5</sup> 47 C.F.R. §§ 0.111, 0.311, 1.80.

<sup>6</sup> See 47 C.F.R. § 1.1914.